United Nations A/HRC/29/NGO/13

General Assembly

Distr.: General
3 June 2015

English only

Human Rights Council
Twenty-ninth session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-11221 (E)
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Saudi Arabia: is this what is to be expected of a UN Human Rights Council member (Part 2)?

This statement follows one to the 28th session of the Human Rights Council[1] about violations of rights to freedom of expression, peaceful assembly and association committed by the Saudi Arabian authorities over the past two years, including after Saudi Arabia was elected as Council member in November 2013 for the third time.

It focuses on concerns about discrimination against women and minorities, and the death penalty during the same period of time. A version published on the Amnesty International website includes longer footnotes and other additional information.[2]

Discrimination against Women

Despite some improvements in promoting women's rights in Saudi Arabia, particularly through allocating them 30 seats out of a total of 150 in the Shura Council and opening up a number of employment and other economic opportunities for them, women and girls are still subject to discrimination in law and practice, and in particular through the existing male guardianship system over women. The system enshrines in law women's subordinate status to men, particularly in relation to family matters such as marriage, divorce, child custody, and inheritance. Despite a government awareness-raising campaign launched in 2013 and a law criminalizing domestic violence adopted that same year, women and girls are inadequately protected against sexual and other violence and the law criminalizing domestic violence is yet to be applied partly due to the lack of competent authorities to enforce it.

During both the 2009 and 2013 Universal Periodic Review (UPR) sessions, the Saudi Arabian authorities accepted recommendations to abolish the male guardianship system over women, but no steps have been taken to that regard.[3]

Women who supported the Women2Drive campaign, launched in 2011 to challenge the prohibition on women driving vehicles, faced harassment and intimidation by the authorities, and were threatened with arrest and detention. Some were arrested but released after a short period. In early December 2014, Loujain al-Hathloul and Maysa al-Amoudi, two supporters of the campaign, were arrested at the border with the United Arab Emirates for driving their cars.

They were later charged with terrorism-related offences and released after spending 10 weeks in detention. They were apparently told when they were released that the case against them had been closed and they would no longer need to attend any court hearings. However, it remains unclear whether they were forced to make pledges and whether or not the charges against them have been dropped.[4]

In 2013, two prominent women's rights activists, Wajeha al-Huwaider and Fawzia al-Oyouni, were sentenced to 10-month prison sentences and two-year foreign travel bans for attempting to help a woman who was being abused and ill-treated by her husband.[5]

Discrimination against Minorities

Members of Saudi Arabia's Shi'a Muslim minority continue to face entrenched discrimination that limits their access to government services and employment, excludes them from senior government posts, and prevents them from freely

[1] UN index: A/HRC/28/NGO/19, AI index: MDE 23/1054/2015, 13 February 2015, https://www.amnesty.org/en/documents/mde23/1054/2015/en/.
[2] AI Index: MDE 23/1647/2015, https://www.amnesty.org/en/documents/mde23/1647/2015/en/ .
[3] For the 2009 session see A/HRC/11/23/Add.1, pp. 17-18 and for the recommendations see A/HRC/11/23.
[4] UA 208/14 (Index: MDE 23/1179/2015).
[5] UA 279/13 (Index: MDE 23/031/2013).

exercising their beliefs. Shi'a leaders and activists have faced arrest, imprisonment following unfair trials, and the death penalty.

Authorities routinely ignore when Sunni Muslim clerics on the government payroll and media close to the authorities incite hatred against the Shi'a and other religious minorities. Shi'a Muslims have been arbitrarily denied the right to build mosques and places of worship. In schools, Shi'a Muslims are also denied the right to teach and learn their own history and religious beliefs and instead must study Sunni religious instruction that in some of its forms and in some schools continues to dehumanize the Shi'a and refers to them as "infidels".

In May 2014, the Specialized Criminal Court sentenced Ali Mohammed Baqir al-Nimr to death after convicting him on charges that included demonstrating against the government, possession of weapons and attacking the security forces. He denied the charges and told the court that he had been tortured and forced to "confess" in pre-trial detention. The court convicted him without investigating his torture allegations, and sentenced him to death although he was 17 at the time of the alleged offences.[6]

In October 2014, Ali al-Nimr's uncle, Sheikh Nimr al-Nimr, a Shi'a cleric from Qatif, was sentenced to death by the Specialized Criminal Court. The cleric's trial, which commenced on 25 March 2013, was deeply flawed. He was denied the most basic tools to prepare for his defence and to respond to the charges, including regular access to his lawyer and a pen and paper. The defence could not cross-examine key witnesses or call them in court, in violation of Saudi Arabia's own laws and international law and standards on fair trial, and his lawyer was not informed of the dates of a number of court hearings.[7]

In August 2014, the Specialized Criminal Court sentenced another prominent Shi'a cleric, Sheikh Tawfiq al-'Amr, to eight years in prison, to be followed by a 10-year ban on overseas travel and a ban on delivering religious sermons and public speeches. The same court had sentenced him, on 17 December 2012, to three years' imprisonment, followed by a five-year travel ban, but the Court's Appeal judge sent the case back recommending a harsher sentence. Sheikh Tawfiq al-'Amr had been expected to be released on 1 December 2012, but was not because he refused to sign a pledge that, among other things, he would no longer deliver religious sermons, including during Friday prayers.[8]

The Specialized Criminal Court sentenced other Shi'a activists for their alleged participation in the protests of 2011 and 2012. At least seven received death sentences in 2014 alone, and many others received long prison terms.

The Death Penalty

During the first five months of 2015, there has been a surge in executions. The Saudi Arabian authorities have executed at least 80 persons, a number close to the 90 executions recorded for the whole of 2014. Executions are usually carried out by beheading with a sword, often in public.

Amnesty International deplores that courts in Saud Arabia continue to impose death sentences for a range of offences, including some which, under international standards, either do not meet the criteria for "most serious crimes", such as drug-related offences; or which should not even be criminal offences, such as "sorcery", "adultery" and "apostasy". These sentences are frequently imposed after unfair trials and sometimes based solely on "confessions". There have been cases where defendants alleged that they had been tortured or otherwise coerced or misled into giving false confessions in pre-trial detention. These "confessions" were later used to sentence them to death.

In the past two years, Saudi Arabia has executed at least three juvenile offenders, in blatant disregard of its obligations as a state party to the Convention on the Rights of the Child and against customary international law, which prohibit the use of the death penalty on anyone aged under 18 at the time of the crime.

[6] UA 143/14 (Index: MDE 23/014/2014).
[7] UA 271/14 (Index: MDE 23/028/2014).
[8] UA 242/11 (Index: MDE 23/006/2015).

Saudi Arabia's Supreme Court recently confirmed in a statement dated 17 February 2015, that sentences, including death sentences where the punishment is left to the judge's discretion – a category that includes drug-related offences - can be handed down based solely on suspicions and even if it cannot be proved beyond reasonable doubt that the suspect committed the crime.

Saudi Arabia uses the death penalty disproportionately against foreign nationals, especially migrant workers from poor and developing countries in Asia and Africa. In 2014, out of 90 persons executed, at least 37 were foreign nationals. Out of at least 2,107 people executed in Saudi Arabia between 1985 and 2014, at least 1,028 were foreign nationals – almost half. Foreign nationals with little or no knowledge of Arabic – the language of pre-trial interrogation and trial hearings – are often denied adequate interpretation facilities even when facing capital punishment.

Recommendations

Amnesty International urges the HRC members and observer states to raise the concerns in this statement in HRC debates and in bilateral dialogues with the Saudi Arabian delegation; and in particular to call on Saudi Arabia to:

- fulfil its UPR commitment to abolish the system of male guardianship over women, repeal or amend other legislation that discriminates against women, and enact and enforce comprehensive and effective legislation to abolish discrimination against women;
- put an end to discrimination, intimidation, harassment and detention without charge or trial of members of the Shi'a community and uphold their rights to practice their religion and to peaceful assembly;
- pending full abolition of the death penalty, stop using the death penalty on anyone under the age of 18 at the time of their alleged offence;
- ensure that defendants receive a fair trial in proceedings that ensure the most rigorous compliance with international standards for fair trial, at least equal to Article 14 of the International Covenant on Civil and Political Rights, and without resort to the death penalty;
- restrict the scope of the death penalty to intentional killing, in line with international law and standards on its use;
- establish a moratorium on all executions with a view to abolishing the death penalty; and
- accept outstanding visit requests and agree visit dates for UN Special Procedures,[9] and implement fully and promptly HRC election pledges and accepted UPR recommendations and commitments.

[9] http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsN-Z.aspx